

Senate File 357 - Introduced

SENATE FILE 357
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1109)

A BILL FOR

1 An Act relating to the placement of a child in detention, and
2 including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.22, subsection 5, Code 2021, is
2 amended to read as follows:

3 5. ~~a.~~ A child shall not be detained in a facility under
4 subsection 3, paragraph "c", for a period of time in excess of
5 six hours without the oral or written order of a judge or a
6 magistrate authorizing the detention. A judge or magistrate
7 may authorize detention in a facility under subsection 3,
8 paragraph "c", for a period of time in excess of six hours
9 but less than twenty-four hours, excluding weekends and legal
10 holidays, but only if all of the following occur or exist:

11 {1} a. The facility serves a geographic area outside a
12 standard metropolitan statistical area as determined by the
13 United States census bureau office of management and budget.

14 {2} b. The court determines that an acceptable alternative
15 placement does not exist pursuant to criteria developed by the
16 department of human services.

17 {3} c. The facility has been certified by the department
18 of corrections as being capable of sight and sound separation
19 pursuant to this section and section 356.3.

20 {4} d. The child is awaiting an initial hearing before the
21 court pursuant to section 232.44.

22 ~~b. The restrictions contained in this subsection relating~~
23 ~~to the detention of a child in a facility under subsection~~
24 ~~3, paragraph "c", do not apply if the court has waived its~~
25 ~~jurisdiction over the child for the alleged commission of a~~
26 ~~felony offense pursuant to section 232.45.~~

27 Sec. 2. Section 232.22, subsection 7, Code 2021, is amended
28 to read as follows:

29 7. a. If the juvenile court has waived its jurisdiction
30 over the child ~~for the alleged commission of a forcible felony~~
31 ~~offense pursuant to section 232.45, or 232.45A, or and there~~
32 ~~is a serious risk that the child may commit an act which would~~
33 ~~inflict serious bodily harm on another person, the child may~~
34 ~~be held in the county jail, notwithstanding section 356.3.~~

35 ~~However, wherever possible the child shall be held in sight and~~

1 ~~sound separation from adult offenders. A child held in the~~
 2 ~~county jail under this subsection shall have all the rights of~~
 3 ~~adult postarrest or pretrial detainees. the child is excluded~~
 4 ~~from the jurisdiction of the juvenile court pursuant to section~~
 5 ~~232.8, subsection 1, paragraph "c", and the child is awaiting~~
 6 ~~trial or other legal process, the child shall not be detained~~
 7 ~~in any facility intended for the detention of adults unless~~
 8 ~~the district court determines that after a hearing and issuing~~
 9 ~~written findings, that such detention is in the best interest~~
 10 ~~of the child and the community. In determining whether it is~~
 11 ~~in the best interest of the child and the community to permit a~~
 12 ~~child to be detained in a facility intended for the detention~~
 13 ~~of adults, the court shall consider all of the following:~~

14 (1) The age of the child, including the child's physical and
 15 mental maturity.

16 (2) The present mental state of the child, including whether
 17 the child presents an imminent risk of harm to the child's
 18 self.

19 (3) The nature and circumstances of the alleged offense.

20 (4) The child's history of prior delinquent acts.

21 (5) The relative ability of available adult and juvenile
 22 detention facilities to not only meet the specific needs of the
 23 child but also to protect the safety of the public as well as
 24 other detained children.

25 (6) Any other relevant factor.

26 b. If a court determines pursuant to paragraph "a" that
 27 it is in the best interest of the child and the community to
 28 permit a child to be detained in a facility intended for the
 29 detention of adults, the following conditions shall apply:

30 (1) The child shall not have sight or sound contact with
 31 adult inmates.

32 (2) The court shall hold a hearing, not less than once
 33 every thirty days, or in the case of a rural, nonmetropolitan
 34 jurisdiction as determined by the United States office of
 35 management and budget, not less than once every forty-five

1 days, to review whether it is still in the best interest of the
2 child and the community to permit a child to be detained in a
3 facility intended for the detention of adults.

4 (3) The child shall not be detained in a facility intended
5 for the detention of adults for more than one hundred eighty
6 days unless the court, in writing, determines there is good
7 cause for an extension or the child expressly waives this
8 limitation.

9 (4) A child detained in a county jail in a facility intended
10 for the detention of adults under this subsection shall have
11 all the rights of adult postarrest or pretrial detainees.

12 Sec. 3. EFFECTIVE DATE. This Act takes effect December 18,
13 2021.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill relates to the placement of a child (person under
18 the age of 18) in detention.

19 The bill provides that a judge or magistrate may authorize
20 detention for a period of time in excess of 6 hours but less
21 than 24 hours only if the facility serves a geographic area
22 outside a standard metropolitan statistical area as determined
23 by the United States office of management and budget. Under
24 current law, the United States census bureau determines the
25 standard metropolitan statistical area.

26 The bill provides that if the juvenile court has waived its
27 jurisdiction over a child pursuant to Code section 232.45 or
28 232.45A, or the child is excluded from the jurisdiction of
29 the juvenile court for offenses that involve the manufacture,
30 delivery, or possession of controlled substances while in the
31 immediate possession or control of a firearm or offensive
32 weapon; gang activity involving firearms or offensive weapons;
33 felonious possession of an offensive weapon; or any forcible
34 felony, and the child is awaiting trial or other legal
35 process, the child shall not be detained in any facility

1 intended for the detention of adults unless the district court
2 determines that after a hearing and issuing written findings,
3 such detention is in the best interest of the child and the
4 community. The district court shall consider the age of the
5 child, including the child's physical and mental maturity; the
6 present mental state of the child, including whether the child
7 presents an imminent risk of harm to the child's self; the
8 nature and circumstances of the alleged offense; the child's
9 history of prior delinquent acts; the relative ability of
10 available adult and juvenile detention facilities to not only
11 meet the specific needs of the child but also to protect the
12 safety of the public as well as other detained children; and
13 any other relevant factor.

14 The bill provides that if a court determines that it is in
15 the best interest of the child and the community to permit a
16 child to be detained in a facility intended for the detention
17 of adults, the following conditions shall apply: the child
18 shall not have sight or sound contact with adult inmates; the
19 court shall hold a hearing not less than once every 30 days, or
20 in the case of a rural, nonmetropolitan jurisdiction, not less
21 than once every 45 days, to review whether it is still in the
22 best interest of the child and the community to permit a child
23 to be detained in a facility intended for the detention of
24 adults; the child shall not be detained in a facility intended
25 for the detention of adults for more than 180 days unless
26 the court, in writing, determines there is good cause for an
27 extension or the child expressly waives this limitation; and
28 a child detained in a county jail in a facility intended for
29 the detention of adults shall have all the rights of adult
30 postarrest or pretrial detainees.

31 The bill takes effect December 18, 2021.